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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204473
Party	Defendant Edmund Frette S.A.R.L.
Correspondence Address	JEFFREY H KAUFMAN OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT LLP 1940 DUKE STREET ALEXANDRIA, VA 22314 UNITED STATES tmdocket@oblon.com, jkaufman@oblon.com, Bchapman@oblon.com, KKanelopoulos@oblon.com, Clisenby@oblon.com
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Date	04/18/2013
Attachments	91204473-Answer.pdf ( 9 pages )(26329 bytes )

Applicant.

Opposition No.: 91/204473  
Appln. Serial No. 79/103,520  
Mark: EDMOND FRETTE

**ANSWER TO AMENDED NOTICE OF OPPOSITION,  
AND COUNTERCLAIM**

Edmund Frette S.A.R.L. (“Applicant”), by and through its undersigned counsel, responds to the April 1, 2013 Amended Notice of Opposition as follows:

1. Applicant believes no Answer is required to the one-paragraph Preamble to Pickin' Cotton Communications, LLC's ("Opposer") Amended Notice of Opposition. To the extent an Answer is required, Applicant denies Opposer will be damaged by registration of Applicant's EDMOND FRETTE mark in Application Serial No. 79/103,520.
2. For Paragraph 1, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 1, leaving Opposer to strict proof thereof.
3. For Paragraph 2, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 2, leaving Opposer to strict proof thereof.
4. For Paragraph 3, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 3, leaving Opposer to strict proof thereof.

5. For Paragraph 4, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 4, leaving Opposer to strict proof thereof.

6. For Paragraph 5, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 5, leaving Opposer to strict proof thereof.

7. For Paragraph 6, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 6, leaving Opposer to strict proof thereof.

8. For Paragraph 7, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 7, leaving Opposer to strict proof thereof.

9. For Paragraph 8, Applicant is without sufficient knowledge to form a belief as to the allegations of Paragraph 8, leaving Opposer to strict proof thereof.

10. For Paragraph 9, Applicant denies the allegations of Paragraph 9, leaving Opposer to strict proof thereof.

11. For Paragraph 10, Applicant admits that Edmund Frette S.A.R.L. is a limited liability company organized under the laws of Luxembourg with an address of 2, Avenue Charles de Gaulle, L-1653, Luxembourg, and is the Applicant in Application Serial No. 79/103,520 for the mark EDMOND FRETTE for goods in Classes 24 and 25, and that Applicant is represented by Jeffrey Kaufman of Oblon Spivak.

12. For paragraph 11, Applicant admits that Application Serial No. 79/103,520 for the mark EDMOND FRETTE was published for opposition on February 28, 2012, and that Opposer filed its original Notice of Opposition with the Trademark Trial and Appeal Board on March 26, 2012.

13. For paragraph 12, Applicant denies the allegations of Paragraph 12, leaving Opposer to strict proof thereof.

14. For paragraph 13, Applicant denies the allegations of Paragraph 13, leaving Opposer to strict proof thereof.

15. For Paragraph 14, because Applicant is without knowledge of “the items of apparel on which [Opposer] uses or intends to use” its FRATTY mark, Applicant is without knowledge sufficient to form a belief as to the allegations of Paragraph 14, leaving Opposer to strict proof thereof.

16. For Paragraph 15, Applicant denies the allegations of Paragraph 15, leaving Opposer to strict proof thereof.

17. For Paragraph 16, Applicant denies the allegations of Paragraph 16, leaving Opposer to strict proof thereof.

18. For Paragraph 17, Applicant denies the allegations of Paragraph 17, leaving Opposer to strict proof thereof.

19. For Paragraph 18, Applicant denies the allegations of Paragraph 18, leaving Opposer to strict proof thereof.

20. Regarding the closing paragraph, Applicant denies that Opposer is entitled to the relief requested therein.

### **COUNTERCLAIM**

1. On or about December 30, 2010, Opposer filed Application Serial No. 85/207,681 with the USPTO for the mark FRATTY, asserting Opposer’s *bona fide* intention to use the mark in commerce on the identified goods, and supported by Opposer’s Declaration signed by Alfonzo D. Bolden and Troy A. Bolden as “CO-CEOs”.

2. The USPTO issued a Notice of Allowance for Opposer’s Application No. 85/207,681 on May 8, 2012 for all goods identified in the application.

3. On November 3, 2012 Opposer filed with the USPTO a Statement of Use asserting a date of first use of December 30, 2010 and a date of first use in commerce of November 3, 2012 in its FRATTY application, stating “The specimen consist [sic] of two pictures of t-shirts,” including Opposer’s signed Declaration in support thereof.

4. In Opposer’s November 3, 2012 Statement of Use, Opposer listed the identification of goods as applied for on December 30, 2010, and Opposer specifically stated “Keep All Listed” goods, supported by Opposer’s Declaration signed by Alfonzo D. Bolden and Troy A. Bolden as “CO-CEOs”.

5. Opposer’s Application Serial No. 85/207,681 issued on January 15, 2013 as Registration No. 4,276,293 for the following goods: “Adult novelty gag clothing item, namely, socks; baby layettes for clothing; belts; belts for clothing; belts made out of cloth; bibs not of cloth or paper; bottoms; children's and infants' cloth bibs; children's cloth eating bibs; cloth bibs; cloth bibs for adult diners; cloth bibs for use by senior citizens or physically- or mentally-challenged persons; cloth diapers; clothing extension used to extend the normal size range of clothing items to accommodate pregnancy size changes; clothing for athletic use, namely, padded elbow compression sleeves being part of an athletic garment; clothing for athletic use, namely, padded pants; clothing for athletic use, namely, padded shirts; clothing for athletic use, namely, padded shorts; clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; clothing for wear in judo practices; clothing for wear in wrestling games; clothing items, namely, adhesive pockets that may be affixed directly to the body as a decorative piece of clothing with utility; clothing items, namely, adhesive pockets that may be affixed directly to the inside of clothing for storage and safekeeping of personal items; clothing shields, namely, pads applied to the underarms of shirts,

blouses and sweaters; clothing, namely, arm warmers; clothing, namely, athletic sleeves; clothing, namely, base layers; clothing, namely, folk costumes; clothing, namely, hand-warmers; clothing, namely, khakis; clothing, namely, knee warmers; clothing, namely, maternity bands; clothing, namely, neck tubes; clothing, namely, thobes; clothing, namely, wrap-arounds; corsets; dusters; eyeshades; foulards; gloves as clothing; headbands for clothing; hoods; infant and toddler one piece clothing; infant cloth diapers; inserts specially adapted for cloth diapers made of bamboo; inserts specially adapted for cloth diapers made of hemp; inserts specially adapted for cloth diapers made of microfiber; jackets; jerseys; leather belts; mantles; mufflers; non-disposable cloth training pants; paper hats for use as clothing items; parts of clothing, namely, gussets for tights, gussets for stockings, gussets for bathing suits, gussets for underwear, gussets for leotards and gussets for footlets; parts of clothing, namely, underarm gussets; party hats; perspiration absorbent underwear clothing; pocket squares; shifts; short sets; shoulder wraps; shoulder wraps for clothing; swaddling clothes; ties; tops; travel clothing contained in a package comprising reversible jackets, pants, skirts, tops and a belt or scarf; triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; underarm clothing shields; wearable garments and clothing, namely, shirts; wraps.”

6. Upon information and belief, Opposer’s averment of a *bona fide* intention to use the mark FRATTY on or in connection with every good recited in the application filed on or about on December 30, 2010 was made with knowledge and belief that said averment was false. Said material false averment was made with the intent to induce employees of the USPTO to grant Opposer a registration; and reasonably relying on the truth of Opposer’s material false averment, the USPTO issued Registration No. 4,276,293 to Opposer.

7. Upon information and belief, Opposer's averment of use of the mark FRATTY on or in connection with every good recited in Opposer's Statement of Use filed November 3, 2012 was made with knowledge and belief that said averment was false. Said material false averment was made with the intent to induce employees of the USPTO to grant Opposer a registration; and reasonably relying on the truth of Opposer's material false averment, the USPTO issued Registration No. 4,276,293 to Opposer.

8. Upon information and belief, Opposer did not have a *bona fide* intention to use the mark FRATTY on or in connection with every good recited in its application filed on or about December 30, 2012.

9. Upon information and belief, Opposer is not now using, and has never used, the mark FRATTY on or in connection with every good recited in Opposer's November 3, 2012 Statement of Use.

10. Applicant avers that, upon information and belief, Opposer's Registration No. 4,276,293 was obtained fraudulently in that Opposer's FRATTY application and Opposer's Statement of Use as filed by Opposer with the USPTO under notice of Section 1001 of Title 18 of the United States Code and signed by Alfonzo D. Bolden and Troy A. Bolden as "CO-CEO's" contained known false material statements, made with the intent to deceive the USPTO.

11. Upon information and belief, Applicant alleges that Opposer has not used the mark on or in connection with every good recited in the November 3, 2012 Statement of Use. Therefore, Opposer's registration should be cancelled based on non-use of the mark under Section 1(a) of the Trademark Act, 15 USC §1052(a).

12. Applicant avers that it is damaged by the continued existence of Opposer's Registration No. 4,276,293.

13. Applicant, Edmund Frette S.A.R.L., reserves the right to assert affirmative defense(s) or further compulsory or permissive counterclaim(s), if warranted by information obtained through discovery or trial.

WHEREFORE, Edmund Frette S.A.R.L. prays that its Counterclaim Petition to Cancel be granted; that Pickin' Cotton Communications, LLC's Registration No. 4,276,293 be cancelled; that Pickin' Cotton Communications, LLC's Amended Notice of Opposition against Application Serial No. 79/103,520 be dismissed; and that Edmund Frette S.A.R.L.'s Application Serial No. 79/103,520 be forwarded for issuance as a registration.

Applicant has previously appointed Jeffrey H. Kaufman and the firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, L.L.P., as its attorneys with full powers of substitution and revocation and to transact all business in the United States Patent and Trademark Office in connection with the Notice of Opposition.

Please address all correspondence to **Jeffrey H. Kaufman** at OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, L.L.P., 1940 Duke Street, Alexandria, Virginia 22314.



The required counterclaim filing fee was previously submitted. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-2014.

Respectfully submitted,

EDMUND FRETTE S.A.R.L.

By: /jkh/  
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Counsel for Applicant

Date: April 18, 2013  
JHK/BAC/cli {8244085\_1.DOC}

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing ANSWER TO AMENDED NOTICE OF OPPOSITION, AND COUNTERCLAIM was served on Opposer at Opposer's correspondence address in the records of the USPTO, this 18th day of April, 2013, by sending same via First Class mail, postage prepaid, to:

Matt Fogarty, MD  
Pickin' Cotton Communications, LLC  
232 Ivory Street  
Lafayette, LA 70506

and with a courtesy copy by email to: [mfogartynd@hotmail.com](mailto:mfogartynd@hotmail.com)

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